

REMARKS

This is intended as a full and complete response to the Office Action dated March 2, 2007, having a shortened statutory period for response set to expire on June 2, 2007. Applicants respectfully request entry and consideration of the above noted amendments and the following remarks in response to the Office Action.

CLAIM REJECTIONS:

Claims 12-17 and 22-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,143,683 (*Shamshoum*) in view of European Patent No. 1,138,687 (*Kawai*). *Shamshoum* teaches a metallocene catalyst including an isospecific metallocene component and a stereorigid syndiospecific metallocene catalyst component. See, Abstract. The isospecific metallocene component includes indenyl ligands. See, column 5, lines 33-63. The Office Action states that “[i]t is noted that *Shamshoum* does not expressly teach the isotactic metallocene catalyst of the instant claims.”

Applicants respectfully submit that there is no motivation to replace the indenyl ligands of *Shamshoum* with the ligands taught by *Kawai* to form an isospecific metallocene catalyst component represented by the formula $R''(CpR^1R^2R^3)(Cp'R'_n)MQ_2$, wherein Cp is a substituted cyclopentadienyl ring and Cp' is a substituted or unsubstituted fluorenyl ring ... to form a compound having a **single** composition peak, as recited in the pending claims. The Office Action further states that “*Shamshoum* and *Kawai* are analogous because they both are from the same area of endeavor of metallocene catalyst composition for olefin polymerizations.” In moving from the prior art to the claimed invention, one cannot base a determination of obviousness on what the skilled person might try or find obvious to try. Rather, the proper test requires determining what the prior art would have led the skilled person to do. See, *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). Applicants respectfully submit that the prior art would not have led the skilled person to replace the indenyl ligands of *Shamshoum* with the ligands taught by *Kawai* because such a replacement would render the catalyst *Shamshoum* inoperable for the intended purpose. The intended purpose of *Shamshoum* is

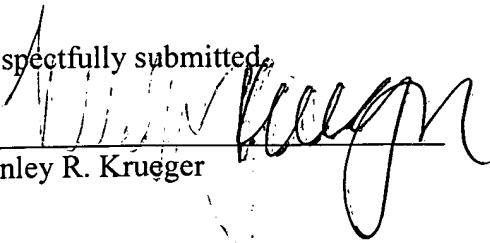
specifically the preparation of bimetallic catalyst systems including indenyl bridged metallocenes to produce **bimodal** molecular weight distribution compositions.

However, even if combined, Applicants submit that *Shamshoum* does not teach the syndiospecific metallocene recited in the pending claim. *Shamshoum* teaches Cp rings that may be substituted by hydrocarbyl radicals having 1-20 carbons. *See*, column 6, lines 1-6. *Shamshoum* further teaches that in order to produce a syndiotactic polymer, the characteristics of the groups substituted directly on the Cp rings is important. *See*, column 6, lines 20-24. Although the prior disclosure of a species within a genus will render the genus unpatentable, the generic disclosure of an invention may not render the species unpatentable. *See*, *In re Baird*, 16 F.3d 380, 29 U.S.P.Q.2d 1550 (Fed. Cir. 1994). Applicants respectfully submit that the generic disclosure of substituents including hydrocarbyl radicals having from 1 to 20 carbons does not render fluorenyl ligands used in multi-catalyst systems, as recited in the pending claims, unpatentable. In such a case, there must be a suggestion in the reference to select the particular combination of variables in the formula. *See, Id.* at page 382. *Shamshoum* teaches that linear substituents are preferred and does not adequately set forth the teaching of fluorenyl ligands (*e.g.*, two identical C4 fused substituents). *See*, column 6, lines 46-54. Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 18-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Shamshoum* in view of *Kawai* and WO 00/60148 (*Demain*). *Demain* does not supply the features missing from the primary references, *Shamshoum*. Therefore, a detailed discussion of such is not deemed necessary herein. Accordingly, Applicants respectfully request withdrawal of the rejection.

In conclusion, Applicants submit that the references cited in the Office Action, neither alone nor in combination, teach, show, or suggest the claimed features. Having addressed all issues set out in the Office Action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request the same.

Respectfully submitted,


Tenley R. Krueger

Registration No. 51,253
T.R. Krueger, P.C.
P.O. Box 16356
Sugar Land, Texas 77496
Telephone: 281-778-8934
Facsimile: 281-778-8937
Attorney for Applicant(s)